

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

CHAVEZ d/b/a FINE ARTS EDUCATION  
REFORM,

Plaintiff,

-against-

SCOTT M. RUDES,

Defendant.

18-CV-9933 (CM)

ORDER

COLLEEN McMAHON, Chief United States District Judge:

By order dated November 30, 2018, the Court dismissed the complaint as duplicative of *Chavez v. Rudes*, No. 18-CV-2781 (N.D. Tex. filed Oct. 18, 2018), which is currently pending in the Northern District of Texas. Plaintiff appealed the Court's order, and on August 29, 2019, the Court of Appeals dismissed the appeal because it lacked an arguable basis either in law or fact. (*See* ECF No. 8.)

On January 10, 2020, Plaintiff filed a one-page "emergent motion for reopen/relief," stating that United States District Judge for the Northern District of Texas, "Ed Kinkeade[,] has been recused." (ECF No. 9) Plaintiff claims that Judge Kinkeade "subjected [him] to an unconsensual 'tit-for-tat' w/o discussion & conclusion with prejudice." (*Id.*) (emphasis in original). Plaintiff requests "help . . . [in] any way you can?!" (*Id.*) Providing his current whereabouts, Plaintiff states that he is "back and forth between Trenton/Newark NJ, BK, Philly, Boston and D.C., now." (*Id.*) He finishes his motion by asking the Court to "lighten the [r]oad and keep [his] path straight & clear?" (*Id.*)

The Court liberally construes this submission as a motion under Fed. R. Civ. P. 60(b) for relief from a judgment or order, *see Triestman v. Fed. Bureau of Prisons*, 470 F.3d 471, 474 (2d Cir. 2006); *see also Tracy v. Freshwater*, 623 F.3d 90, 101 (2d Cir. 2010) (The solicitude

afforded to *pro se* litigants takes a variety of forms, including liberal construction of papers, “relaxation of the limitations on the amendment of pleadings,” leniency in the enforcement of other procedural rules, and “deliberate, continuing efforts to ensure that a *pro se* litigant understands what is required of him”) (citations omitted), and denies the motion as frivolous. Even under a liberal interpretation of the submission, Plaintiff has failed to allege any facts demonstrating that any of the grounds listed in Fed. R. Civ. P. 60(b) apply. Moreover, he has failed to allege any facts demonstrating that extraordinary circumstances exist to warrant relief under Fed. R. Civ. P. 60(b)(6). *See Ackermann v. United States*, 340 U.S. 193, 199-202 (1950).

### CONCLUSION

Plaintiff’s motion for reconsideration (ECF No. 9) is denied.

The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that any appeal from the Court’s judgment would not be taken in good faith.

The Clerk of Court is directed to mail a copy of this order to Plaintiff and note service on the docket.

SO ORDERED.

Dated: April 28, 2020  
New York, New York



---

COLLEEN McMAHON  
Chief United States District Judge